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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/277,172	03/26/1999	TORU MAEDA	35G2368	3148
5514	7590	01/14/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			POKRZYWA, JOSEPH R	
			ART UNIT	PAPER NUMBER
			2622	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/277,172	MAEDA, TORU	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph R. Pokrzywa	2622	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_.

3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_.
4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: of the reasons discussed in the attached action.
6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_.

Claim(s) objected to: \_\_\_\_.

Claim(s) rejected: \_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_.

8.  The drawing correction filed on \_\_\_\_\_ is a) approved or b) disapproved by the Examiner.

9.  Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_.

10.  Other: \_\_\_\_.



Joseph R. Pokrzywa  
Examiner  
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## **DETAILED ACTION**

### ***Period for Reply***

1. The period for reply continues to run 3 MONTHS from the date of the final rejection. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the appropriate fee. The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. A reply within the meaning of 37 CFR 1.113 or a request for a continued examination (RCE) in compliance with 37 CFR 1.114 must be timely filed to avoid abandonment of this application.

### ***Response to Arguments***

2. The request for reconsideration dated 11/29/04 has been entered and considered but does not overcome the rejection because of the following reasons.

In response to applicant's arguments regarding the rejection of claim 66, which was cited in the Office action dated 8/26/04, as being unpatentable over Williams *et al.* (U.S. Patent Number 6,192,045) in view of Merritt *et al.* (U.S. Patent Number 6,421,429), whereby applicant argues on pages 8-10 that Williams fails to teach of detecting an Internet facsimile mode, which a destination apparatus of image data has, from the plurality of Internet facsimile modes during communication in the facsimile mode, in accordance with a first procedure signal of the facsimile mode from the destination apparatus. Claim 66 currently requires a step of "detecting an Internet facsimile mode, which a destination apparatus of image data has, from the plurality of

Internet facsimile modes during communication in the G3 facsimile mode, in accordance with a first procedure signal of the G3 facsimile mode from the destination apparatus". While the examiner understands applicant's arguments, as the claims are currently worded, Williams can be interpreted as teaching the step of "detecting an Internet facsimile mode, which a destination apparatus of image data has, ... in accordance with a first procedure signal... from the destination apparatus", as required in the claim.

Particularly, as seen in Figs. 2 and 3, various destination devices have corresponding telephone numbers and internet facsimile modes, being interpreted as the "internet modes" of the different data networks. For instance, as seen in Fig. 2, the reception device with the telephone number 305-652-8852 has a network address of 13395322, and an internet mode being the Lexus/Nexus data network. Continuing, as seen in Fig. 12, Williams teaches at step 74, that an outgoing phone call is made. This is a communication in a facsimile mode. Further, upon receiving a procedure signal from the receiving device after step 83, seen as the dashed line, a transmission mode is determined or detected (being either the facsimile mode, which proceeds to step 85, or a digitized Internet mode, being steps 77-79), based on the entries in the tables of Figs. 2 and 3. Because the originating apparatus detects that a destination apparatus answers the call, one of ordinary skill in the art can recognize that the use of an Internet facsimile mode is determined or detected at this point. While this is different than using the G3 fax protocol signals to detect the capabilities of the destination device and having the destination's internet address included in the TSE, as is shown in Fig. 5 of the current application, these features are not being conveyed in the claims current language. Thus, Williams can be interpreted as teaching of detecting an Internet facsimile mode, which a destination apparatus of image data has, ... in

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accordance with a first procedure signal... from the destination apparatus, as is currently required.

Continuing, as discussed above, Williams can be interpreted as teaching of detecting an Internet facsimile mode during communication in a facsimile mode. However, Williams fails to expressly disclose if the *facsimile mode*, mentioned above, is actually a "G3 facsimile mode". Merritt is being relied on to teach of using a G3 facsimile mode, as read in column 5, lines 51-65. Thus, it would have been obvious to have Williams system utilize a G3 facsimile mode, as it would conform with well known standards in facsimile communication, as recognized by Merritt.

Thus, the rejection of independent **claim 66**, as well as independent **claim 89**, as cited in the Office action dated 8/26/04, under 35U.S.C.103(a), as being unpatentable over Williams *et al.* in view of Merritt *et al.* is maintained.

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (703) 305-0146. The examiner can normally be reached on Monday-Friday, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (703) 305-4712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph R. Pokrzywa  
Examiner  
Art Unit 2622

jrp

